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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/629,840 | 07/29/2003 | Thomas Maierholzner | 22634 | 6142 |

S35 7590 11/14/2005

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EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/629,840 | Applicant(s) MAIERHOLZNER, THOMAS | |
| | Examiner Andre' L. Jackson | Art Unit 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 29, 2005 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,375,265 to Hubner et al. Hubner et al discloses an armrest for a vehicle seat comprising;

a support (2a, 2b); a hinge (3, 21) on the support and having at least one hinge arm (7) swingable about a hinge axis on the support; an armrest (1) connected by the hinge with the support and swingable about the axis through a predetermined maximum angular range (12); and a disengaging element (9) on the armrest, normally engaged with the arm and enabling joint rotation of the hinge arm and the armrest, but disengaging the arm (Figs. 3 and 4) upon application of a force to the armrest exceeding a limiting force (11) upon swinging of the armrest

relative to the support, the armrest being detachable and removable from the hinge and separable from the axis when the limiting force is exceeded.

As to claims 2-4, the disengaging element is slidable longitudinally along a guide (16, 18) within a disk end (1a) of the armrest with a compression spring (8) bearing thereon, the armrest disengaging the arm from the limiting force position with a rotational movement. Stops (5, 6) are formed at opposing ends of the angular range path, limiting the displacement of the disengagement element at an incline position shown in Fig. 3 and a decline position shown in Fig. 4.

As to claims 5 and 6, the disengagement element is composed of synthetic plastic, including elastic characteristics (col. 5, lines 20-26).

As to claims 7-11, the armrest further defines a bevel or arcuate protrusion portion at each stop (Fig. 5), which cams against cam faces (9a, 9b) to displace the armrest toward the limiting force position. An aperture or notch (7a) is engaged by the disengagement element (col. 7, lines 21-28) at the free end of the armrest. The support includes a base (2) provided with the arcuate or circular opening in which the free end of the armrest is received between upper and lower walls thereof (Fig. 2). The limiting force position is a notch (11a) opposite a free end of the arm and the arm of the armrest is a projection (10) in form of a roller (25) engaging in the notch.

Response to Applicant's Arguments

Applicant's arguments filed in the Amendment of July 12, 2005 have been fully considered but they are not persuasive. At the outset, applicant attempts to define the present claimed invention over the prior art relied upon (Hubner et al.) by amending the claims.

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Specifically, applicant amends base claim 1 to include the limitations that “said armrest being detachable and removable from said hinge and separable from said axis”. Here, the terms “detachable”, “removable” and “separable” has been held as terms which recite an element “adapted to” or “capable of” a function and is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense if the prior art satisfies the structural limitation(s). Therefore, since Hubner et al includes an armrest that is capable of being detached and removed from the hinge and capable of being separated from the axis, then Hubner et al anticipates the structural claim limitations. Further, the Examiner is unable to find in the disclosure of Hubner et al, where the armrest of Hubner et al is permanently connected or mounted to the support, which is supported further by figures 5-10 which illustrate the support (Figs. 5-7) unattached with the armrest (Figs. 8-10). Therefore, for these reasons above the Examiner believes Hubner et al notwithstanding applicant’s amendment, anticipates applicant’s claims as presented. Accordingly, claims 1-11 remain rejected as being unpatentable over Hubner et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular, Mizusawa discloses a opening/closing device for detachably coupling a closure lid or body to a base or housing body defining a disengaging element. This reference may be used singly or in combination with the prior art relied upon to meet the limitations of applicant’s claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER